

Response Under 37 CFR 1.116
Expedited Procedure
Examining Group 1742
Appl. No. 10/828,662
Amdt. dated November 9, 2006
Reply to final Office Action of 06/13/2006
Attorney Docket No. 3824-032373

REMARKS

Claims 1-4 and 6-11 are pending in the application. Claims 1-4 and 11 are canceled and independent claims 6, 7 and 10 are amended herein. Claims 6-10 are currently before the Examiner.

Claims 1-4 and 6-11 stand rejected under 35 U.S.C. §103(a) as being unpatentable for obviousness over each of United States Patent No. 6,372,057 to Fujimora ("Fujimora"), Japanese Patent No. 4103178095 ("JP '095"), or Japanese Patent No. 411131176 ("JP '176"). Claim 7 also stands objected to because the recited Si range of 0.59 to 0.9% is broader than its parent claim 6 which recites a Si range of 0.64 to 1.0%.

Claim 7 has been amended hereinabove to define the Si range therein as 0.64 to 0.9% which now properly falls within the 0.64 to 1.0% range of parent claim 6.

Applicant has amended the preamble of independent claims 6 and 10 to change the transitional phrase "consisting essentially of" to --consisting of--. This amendment further narrows the claims to exclude any element, step or ingredient not specified in the claim and closes the claim to the inclusion of materials other than those recited. See MPEP §2111.03.

In addition, Applicant has amended the Cr content in claims 6 and 10 by adding the phrase --an effective amount for hardenability up to 0.4"-- which further distinguishes over the prior art of record by making Cr a mandatory addition in the claimed alloy. It will be noted in the present specification that Ni is present in all of the alloy yeats of the invention set forth in the tables on pages 10, 11, 14 and 15.

Applicant believes that with the insertion of the transitional phrase "consisting of", the composition defined by the claims precludes the addition of aluminum, as taught by the three cited references, Fujimora, JP '095 and JP '175. Furthermore, claims 6-9 are clearly distinguishable over Fujimora with the addition of vanadium (V) which is not taught or suggested by Fujimora, in addition to the absence of aluminum in the present claims.

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With respect to JP '176, the present claims as amended contain chromium "in an effective amount for hardenability up to 0.4%." JP '176 fails to disclose that Cr should be present in the composition. In addition, the transitional phrase "consisting of" precludes the presence of Al in the present claims, whereas Al is a necessary addition in JP '176. Hence, the present claims as amended define over JP '176.

Finally, the amended claims define over the composition of JP '095 in view of the absence of aluminum (Al), as well as the upper limit of 1.50% Mn in JP '095.

Based on the foregoing amendments and remarks, Applicant respectfully submits that the presently claimed invention is patentably distinguishable over the prior art of record and that claims 6-10 are deemed to be in condition for allowance. The Examiner's reconsideration and favorable action with respect to claims 6-10 are respectfully requested.

Respectfully submitted,

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